

continued operation of a public/private club, pursuant to Section 9-4-78(f)(6)(m) of the Greenville City Code. The proposed is to be located at 507 & 509 North Greene Street and is further identified as Tax Parcels 35573 & 04223.

Chairman Wubneh declared the meeting a public hearing as advertised in The Daily Reflector on April 17, 2006 and April 24, 2006. Those wishing to speak for or against the request were sworn in.

Mr. Lynch delineated the area on the map. Mr. Lynch stated this is a request for renewal of a special use permit. The property is located at 507 and 509 North Greene Street. The subject request is located in the CH (Heavy Commercial District). The property is located in Vision Area "B" as designated in the Comprehensive Land Use Plan. The Land Use Plan recommends commercial development. Mr. Lynch stated that the property is located within the floodway. Mr. Lynch stated that the club is subject to an annual staff review to check to see if any violations have occurred and report back to the Board. The Board at their discretion may schedule a public hearing to consider the request. Mr. Lynch asked that the proposed Findings of Fact be entered into the record.

Applicant: Shawn Williamson

Request: The applicant, Shawn Williamson of Club Dynasty, desires the renewal of a special use permit to continue operation of a public or private club pursuant to Sections 9-4-78(f)(6)m and 9-4-86(f) of the Greenville City Code.

Location: The existing use is located at 507 & 509 North Greene Street. The property is further identified as being Tax Parcel Number 35573 & 04223.

Zoning of Property: CH (Heavy Commercial)

Surrounding Development:

Zoning

North: White Concrete	CH (Heavy Commercial)
South: Vacant (Flood Plain)	RA-20 (Rural Residential)
East: Trademart & Miller Const.	CH (Heavy Commercial)
West: Railroad & vacant land	RA-20 (Rural Residential)

Description of Property:

The subject request is located in the CH (Heavy Commercial District). This location is over 1500 feet from any existing residential homes. In 1999 the building was flooded as a result of Hurricane Floyd. The building has 42000 heated square feet, which is occupied for the proposed use. The property has 707 feet of frontage along N. Greene Street and consists of 6.11 acres; there are approximately 650 parking spaces to accommodate the use.

Comprehensive Plan:

The property is located in Vision Area "B" as designated in the Comprehensive Land Use Plan. The proposed use is in general compliance with the Land Use Plan Map, which recommends commercial development for the subject property.

Notice:

Notice was mailed to the adjoining property owners on April 13, 2006. Notice of the public hearing was published in the Daily Reflector on April 17, 2006 and April 24, 2006.

Staff Comments:

Definition of a Public or Private Club [zoning regulations]:

An establishment of which the principal use is entertainment and which:

1. May be open to the general public;
2. May require a membership, cover or minimum charge for admittance or service during regular or special periods of operation;
3. May provide live or recorded amplified music;
4. May provide a floor show;
5. May provide a dance area;
6. May offer a full service bar;
7. May offer food services;
8. May provide food attendant (waiter/waitress) table ordering and busboy services; and

9. Does not qualify under the definition of “restaurant, fast food” or “restaurant, conventional” as contained herein.

If approved, the applicant shall comply with the following pursuant to Section 9-4-86(f), Specific Criteria:

- (11) (a) A special use permit for a public or private club is subject to revocation in accordance with the provisions of this subsection (f)(1). Nothing herein shall prohibit or restrict the authority of the board of adjustment to rescind or revoke a special use permit for a public or private club in accordance with the provisions of section 9-4-83.
- (b) An annual review shall be conducted by the director of planning or his authorized representative of a public or private club which has received a special use permit for the purpose of determining and ensuring compliance with applicable laws, codes, and ordinances including, but not limited to, noise regulations, litter control regulations, fire codes, building codes, nuisance and public safety regulations, and special use permit conditions of approval. The findings of the director of planning or his authorized representative as a result of this annual review shall be compiled in a written staff report.
- (c) At a meeting of the board of adjustment, the director of planning or his authorized representative shall present to the board of adjustment the staff report of a public or private club for which the annual review includes a finding of one or more instances of non-compliance with applicable laws, codes, and ordinances including, but not limited to, noise regulations, litter control regulations, fire codes, building codes, nuisance and public safety regulations, and special use permit conditions of approval. The special use permit holder as specified under subsection (4) below shall be provided notice of the meeting and a copy of the staff report.
- (d) Based on the staff report, the board of adjustment, by a majority vote, may either determine that a rehearing is not required for the special use permit or order a rehearing on the special use permit. An order for a rehearing shall be based upon a determination by the board of

adjustment that either (i) the use of the property is inconsistent with the approved application, (ii) the use is not in full compliance with all specific requirements set out in Title 9, Chapter 4 of the Greenville City Code, (iii) the use is not compliant with the specific criteria established for the issuance of a special use permit including conditions and specifications, health and safety, detriment to public welfare, existing uses detrimental, injury to properties or improvements, and nuisance or hazard, or (iv) the use is not compliant with any additional conditions of approval established by the board and set out in the order granting the permit. The rehearing shall be in the nature of, and in accordance with the requirements for a hearing upon a special use permit application. After the rehearing and in accordance with the provisions of section 9-4-81, the board of adjustment may grant a special use permit with conditions imposed pursuant to this subsection (f) and section 9-4-82 or deny the special use permit. The grant or denial of the special use permit by the board of adjustment after the rehearing shall constitute a revocation of the previously granted special use permit for a public or private club.

- (e) The requirements and standards set forth in this subsection (f)(11) are in addition to other available remedies and nothing herein shall prohibit the enforcement of applicable codes, ordinances and regulations as provided by law.
- (2) The owner(s) and operator(s) of a public or private club shall collect and properly dispose of all litter and debris generated by their establishment or patrons immediately following the closure of business or not later than 7:00 AM each morning following any period of operation. All litter or debris shall be collected from within the boundaries of the establishment, associated parking areas, adjacent sidewalks and public right-of-ways or other adjacent public property open to the public. In addition, the owner(s) and operator(s) of a public or private club shall comply with the provisions of Title 11, Chapter 9 of the City Code whether or not the establishment is a nightclub, bar or tavern.
- (3) In addition to subsection (2) above, the board of adjustment may establish specific and reasonable litter and trash mitigation standards or requirements.

- (4) The special use permit shall be issued to the property owner as listed on the tax records of the county. When the ownership of any property, which has a special use permit for a public or private club, is transferred to a new owner by sale or other means, the new owner shall sign and file with the office of the director of planning an acknowledgement of the rights, conditions and responsibilities of the special use permit prior to operation of the use under the permit. The acknowledgement shall be made on forms provided by the planning office.
- (5) Any public or private club that has been issued a special use permit by the board of adjustment, that is subject to mandatory annual renewal, shall continue under the terms and conditions of the issued special use permit, until the expiration of said permit. All subsequent special use permit approvals for said location shall be subject to the specific criteria set forth under this subsection (f).

Staff Recommendation:

Planning staff is of the opinion that the request can meet all the development standards required for issuance of a special use permit upon proper findings by the Board.

Mr. Shawn Williamson spoke on behalf of the request. Mr. Williamson stated he has operated the club since 2001 and has had no problems. Mr. Williamson stated he has a good relationship with ALE and the Greenville Police Department. Mr. Williamson stated that the property was flooded in 1999 and repairs were done in accordance with the local and state building and fire codes.

No one spoke in opposition.

Chairman Wubneh then read the criteria in granting/denying a special use permit.

Motion was made by Mr. Wright, seconded by Ms. Bellis, to adopt the proposed findings of fact and evidence presented. Motion carried unanimously.

Motion was made by Mr. Harwell, seconded by Mr. Ward, to approve the request. Motion carried unanimously.

Based on the facts found by the Board and the evidence presented, the Board orders that this permit be granted and subject to full compliance with all of the specific requirements stated in the Zoning Ordinance of the City of Greenville for the proposed use.

REQUEST FOR A SPECIAL USE PERMIT BY JUDY W. BEAMAN AND FRANK OWENS – GRANTED

Chairman Wubneh stated that the next item is a request by Judy Wilkerson Beaman and Frank Owens. The applicants, Judy Wilkerson Beaman and Frank Owens, have requested a special use permit to allow the continued operation of a public/private club, pursuant to Section 9-4-78(f)(6)(m) of the Greenville City Code. The proposed is to be located at 2120 East Firetower Road Suite 5 and is further identified as Tax Parcel 42243.

Chairman Wubneh declared the meeting a public hearing as advertised in The Daily Reflector on April 17, 2006 and April 24, 2006. Those wishing to speak for or against the request were sworn in.

Mr. Lynch delineated the area on the map. Mr. Lynch stated that this request is located in the Bells Fork Shopping Center. The property is zoned General Commercial. The Land Use Plan recommends commercial uses in the area and is located in Vision Area “C”. The request is consistent with the Land Use Plan. Mr. Lynch stated that the club is subject to an annual staff review to check to see if any violations have occurred and report back to the Board. The Board at their discretion may schedule a public hearing to consider the request. The property is located at the intersection of two major thoroughfares, Charles Boulevard and Fire Tower Road. Mr. Lynch asked that the Findings of Fact be entered into the record.

Applicant: Judy Beaman & Frank Owens

Request: The applicants, Judy Beaman and Frank Owens, desire the renewal of a special use permit to continue the operation of a public or private club and game room pursuant to Sections 9-4-78(f)(6)l & m and 9-4-86(f) of the Greenville City Code.

Location: The proposed use is to be located at 2120-5 East Firetower Road

in the Bells Fork Square Shopping Center. The shopping center is located at the intersection of Firetower Road and Charles Boulevard (NC 43). The property is further identified as being Tax Parcel Number 42243.

Zoning of Property: CG (General Commercial)

Surrounding Development:

Zoning

North: Just Hair Salon	CG (General Commercial)
South: ASAP (Film Store)	CG (General Commercial)
East: Vacant	CG (General Commercial)
West: Amoco, Hardees	CG (General Commercial)

Description of Property:

The site is approximately 5600 square feet, which is part of a planned shopping center. There are a total of 296 parking spaces provided for the shopping center.

Comprehensive Plan:

The property is located within Vision Area "C" as designed by the Comprehensive Plan. Management actions for Vision Area "C" are to encourage development and redevelopment of existing commercial areas. The request is consistent with the Land Use Plan Map, which recommends commercial development for the subject property.

Notice:

Notice was mailed to the adjoining property owners on April 13, 2006. Notice of the public hearing was published in the Daily Reflector on April 17, 2006 and April 24, 2006.

Staff Comments:

Definition of a Public or Private Club [zoning regulations]:

An establishment of which the principal use is entertainment and which:

1. May be open to the general public;
2. May require a membership, cover or minimum charge for admittance or service during regular or special periods of operation;
3. May provide live or recorded amplified music;
4. May provide a floor show;
5. May provide a dance area;
6. May offer a full service bar;
7. May offer food services;
8. May provide food attendant (waiter/waitress) table ordering and busboy services; and
9. Does not qualify under the definition of “restaurant, fast food” or “restaurant, conventional” as contained herein.

If approved, the applicant shall comply with the following pursuant to Section 9-4-86(f), Specific Criteria:

- (11) (a) A special use permit for a public or private club is subject to revocation in accordance with the provisions of this subsection (f)(1). Nothing herein shall prohibit or restrict the authority of the board of adjustment to rescind or revoke a special use permit for a public or private club in accordance with the provisions of section 9-4-83.
- (b) An annual review shall be conducted by the director of planning or his authorized representative of a public or private club which has received a special use permit for the purpose of determining and ensuring compliance with applicable laws, codes, and ordinances including, but not limited to, noise regulations, litter control regulations, fire codes, building codes, nuisance and public safety regulations, and special use permit conditions of approval. The findings of the director of planning or his authorized representative as a result of this annual review shall be compiled in a written staff report.
- (c) At a meeting of the board of adjustment, the director of planning or his authorized representative shall present to the board of adjustment the staff report of a public or private club for which the annual review

includes a finding of one or more instances of non-compliance with applicable laws, codes, and ordinances including, but not limited to, noise regulations, litter control regulations, fire codes, building codes, nuisance and public safety regulations, and special use permit conditions of approval. The special use permit holder as specified under subsection (4) below shall be provided notice of the meeting and a copy of the staff report.

- (d) Based on the staff report, the board of adjustment, by a majority vote, may either determine that a rehearing is not required for the special use permit or order a rehearing on the special use permit. An order for a rehearing shall be based upon a determination by the board of adjustment that either (i) the use of the property is inconsistent with the approved application, (ii) the use is not in full compliance with all specific requirements set out in Title 9, Chapter 4 of the Greenville City Code, (iii) the use is not compliant with the specific criteria established for the issuance of a special use permit including conditions and specifications, health and safety, detriment to public welfare, existing uses detrimental, injury to properties or improvements, and nuisance or hazard, or (iv) the use is not compliant with any additional conditions of approval established by the board and set out in the order granting the permit. The rehearing shall be in the nature of, and in accordance with the requirements for a hearing upon a special use permit application. After the rehearing and in accordance with the provisions of section 9-4-81, the board of adjustment may grant a special use permit with conditions imposed pursuant to this subsection (f) and section 9-4-82 or deny the special use permit. The grant or denial of the special use permit by the board of adjustment after the rehearing shall constitute a revocation of the previously granted special use permit for a public or private club.
 - (e) The requirements and standards set forth in this subsection (f)(11) are in addition to other available remedies and nothing herein shall prohibit the enforcement of applicable codes, ordinances and regulations as provided by law.
- (2) The owner(s) and operator(s) of a public or private club shall collect and

properly dispose of all litter and debris generated by their establishment or patrons immediately following the closure of business or not later than 7:00 AM each morning following any period of operation. All litter or debris shall be collected from within the boundaries of the establishment, associated parking areas, adjacent sidewalks and public right-of-ways or other adjacent public property open to the public. In addition, the owner(s) and operator(s) of a public or private club shall comply with the provisions of Title 11, Chapter 9 of the City Code whether or not the establishment is a nightclub, bar or tavern.

- (3) In addition to subsection (2) above, the board of adjustment may establish specific and reasonable litter and trash mitigation standards or requirements.
- (4) The special use permit shall be issued to the property owner as listed on the tax records of the county. When the ownership of any property, which has a special use permit for a public or private club, is transferred to a new owner by sale or other means, the new owner shall sign and file with the office of the director of planning an acknowledgement of the rights, conditions and responsibilities of the special use permit prior to operation of the use under the permit. The acknowledgement shall be made on forms provided by the planning office.
- (5) Any public or private club that has been issued a special use permit by the board of adjustment, that is subject to mandatory annual renewal, shall continue under the terms and conditions of the issued special use permit, until the expiration of said permit. All subsequent special use permit approvals for said location shall be subject to the specific criteria set forth under this subsection (f).

Staff Recommendation:

Planning staff is of the opinion that the request can meet all the development standards required for issuance of a special use permit upon proper findings by the Board.

Mr. Frank Owens, representing B & O, spoke on behalf of the request. Mr. Owens stated that they have had no problems. Mr. Owens stated that they serve minimal

food.

No one spoke in opposition.

Chairman Wubneh then read the criteria in granting/denying a special use permit.

Motion was made by Mr. Ward, seconded by Mr. Wright, to adopt the proposed findings of fact and evidence presented. Motion carried unanimously.

Motion was made by Mr. Harwell, seconded by Mr. Ward, to approve the request. Motion carried unanimously.

Based on the facts found by the Board and the evidence presented, the Board orders that this permit be granted and subject to full compliance with all of the specific requirements stated in the Zoning Ordinance of the City of Greenville for the proposed use.

REQUEST FOR A SPECIAL USE PERMIT BY JIM MOYE – GRANTED

Chairman Wubneh stated that the next item is a request by Jim Moyer. The applicant, Jim Moyer, has requested a special use permit to allow a fast food restaurant, pursuant to Section 9-4-78(f)(10)(i) of the Greenville City Code. The proposed is to be located at 1900 West Arlington Boulevard and is further identified as Tax Parcel 48582.

Chairman Wubneh declared the meeting a public hearing as advertised in The Daily Reflector on April 17, 2006 and April 24, 2006. Those wishing to speak for or against the request were sworn in.

Mr. Lynch delineated the area on the map. Mr. Lynch stated that the proposed site is located on West Arlington Boulevard in front of Physician's East Shopping Center. The lot has 5.45 acres with 857 feet of frontage along Arlington Boulevard. The whole development, Arlington Crossing, is 56,670 feet of gross building area. The proposed restaurant will occupy unit "F". The property is zoned Medical Office. The Land Use Plan recommends Office/Institutional/Multi-family development and the site is located on a major thoroughfare. The MO district is primarily designed to provide general business, professional offices, and institutional uses as well as provide additional areas for medical clinics and professional office environment.

The MO district shall prohibit commercial/industrial uses which can generate large traffic volume. Limited commercial uses are permitted within the MO District subject to special use permit approval and/or subject to specific performance standards, which are intended to ensure compatibility within district guidelines. Mr. Lynch stated that within any MO zoning district no fast food restaurant shall be located in a freestanding detached structure exclusive to such use. All fast food restaurants in any MO zoning district shall be located within and be part of an attached multi-unit structure which contains not less than three (3) individual units occupied by, or are available for sale or lease, to separate establishments. Mr. Lynch asked that the Findings of Fact be entered into the record.

Applicant: Arlington Crossing, LLC
Jim Moye, Managing Partner

Request: The applicants, Arlington Crossing, LLC., desire a special use permit to allow a conventional restaurant pursuant to section 9-4-78(f)(10)h of the Greenville City Code.

Location: The proposed use is to be located along the 1800 block of West Arlington Boulevard, directly in front of the new Physicians East building. The property is further identified as being a portion of Tax Parcel Number 48582.

Zoning of Property: MO (Medical Office)

<u>Surrounding Development:</u>	<u>Zoning</u>
North: Arlington Medical Park Railroad Tracks	MO (Medical Office)
South: Vacant	MO (Medical Office) RA-20 (Rural Residential)
East: Physicians East Facility	MO (Medical Office)
West: Vacant	MO (Medical Office)

Description of Property:

The lot has 5.45 acres with 857 feet of frontage along Arlington Boulevard. Arlington Crossing development consists of 56,670 gross building area.

Parking for the project as a whole complies with the required retail parking standards. The applicant proposes to occupy unit 'A' of the attached site plan, which totals 11,583 square feet.

Comprehensive Plan:

The property is located within Vision Area "F" of the Comprehensive Plan. This property is located in the "Medical Area" uses in this area should support the medical professionals and clientele. The Land Use Plan Map designates the subject property as Office/Institutional/Multifamily. The current MO (Medical Office) zoning district designation is in conformance with the land use plan recommendations.

Sec. 9-4-57. MO medical-office.

The MO district is primarily designed to provide for general business, professional offices and institutional uses, as well as to provide additional areas for medical offices and clinics to locate in a professional office environment. In addition, the district shall prohibit commercial and industrial land uses, which can generate large traffic volumes, and shall encourage the development of areas that will serve as a buffer for residential zoning districts.

Limited commercial uses are permitted within the MO District subject to special use permit approval and/or subject to specific performance standards, which are intended to ensure compatibility within district guidelines.

SPECIFIC CRITERIA FOR RESTAURANTS

(q) Restaurant; conventional or fast food.

- (1) Except as further provided, whenever a proposed restaurant is to be located adjacent to a permitted residential use, or a residential zoning district, the following minimum standards shall be required:
 - (a) The restaurant principal structure shall maintain a public street (front yard) setback not less than the adjoining residential zoning district;
 - (b) The restaurant principal structure shall maintain a side and rear yard setback not less than twenty-five (25) feet from any property line which abuts a residential zoning district or a permitted residential use;

- (c) The maximum height of the restaurant principal and/or accessory structure(s) shall not exceed thirty-five (35) feet; and
 - (d) Any exterior menu reader board or order station which contains an audio speaker(s) shall be setback not less than fifty (50) feet from any side or rear property line which abuts a permitted residential use or residential zoning district, and such speaker shall be oriented and directed away from any adjacent permitted residential use or residential zoning district in a manner approved by the director of planning or the director's authorized representative and such requirements shall be indicated upon an approved site plan. Separation of such speaker from an adjacent permitted residential use or residential zoning district by an intervening nonresidential building or structure of sufficient dimension to negate or block the transmission of sound may, upon approval of the director of planning or representative, substitute for the speaker setback, orientation and direction standards of this section. No exterior menu reader board or order station shall be utilized or operated in a manner which constitutes a nuisance or hazard to the general public.
- (2) No new restaurant within any MS zoning district shall be located within five hundred (500) feet of any existing or vested restaurant in any zoning district or within one thousand (1000) feet of any existing or vested restaurant in any MS district, as measured between the nearest enclosed structural part of such establishments. (not applicable)
- (3) Within any MO zoning district no fast food restaurant shall be located in a freestanding detached structure exclusive to such use. All fast food restaurants in any MO zoning district shall be located within and be part of an attached multi-unit structure which contains not less than three (3) individual units occupied by, or are available for sale or lease, to separate establishments.

Notice:

Notice was mailed to the adjoining property owners on May 12, 2005. Notice of the public hearing was published in the Daily Reflector on May 16, 2006 and May 23, 2006.

Staff Recommendation:

Site plan approval required prior to issuance of a building permit.

Based upon the information provided the proposed request is able to meet all applicable standards for the issuance of a special use permit. Planning staff does not object to the proposed request.

Mr. Jim Moye, Managing Partner of Arlington Crossing, LLC, spoke on behalf of the request. Mr. Moye stated that Andy's Cheesesteaks will be located at this site. Mr. Moye stated this will be an asset to the area.

No one spoke in opposition.

Chairman Wubneh then read the criteria in granting/denying a special use permit.

Motion was made by Mr. Ward, seconded by Mr. Harwell, to adopt the proposed findings of fact and evidence presented. Motion carried unanimously.

Motion was made by Mr. Hutchens, seconded by Ms. Safford-White, to approve the request. Motion carried unanimously.

Based on the facts found by the Board and the evidence presented, the Board orders that this permit be granted and subject to full compliance with all of the specific requirements stated in the Zoning Ordinance of the City of Greenville for the proposed use.

REQUEST FOR A SPECIAL USE PERMIT BY JIM MOYE – GRANTED

Chairman Wubneh stated that the next item is a request by Jim Moye. The applicant, Jim Moye, has requested a special use permit to allow a salon, pursuant to Section 9-4-78(f)(8)(m) of the Greenville City Code. The proposed is to be located at 1864 West Arlington Boulevard and is further identified as Tax Parcel 48582.

Chairman Wubneh declared the meeting a public hearing as advertised in The Daily Reflector on April 17, 2006 and April 24, 2006. Those wishing to speak for or against the request were sworn in.

Mr. Lynch delineated the area on the map. Mr. Lynch stated this site is within the same location as a previous request. The proposed will be located in unit "H". The property is zoned Medical Office. The Land Use Plan recommends Office/Institutional/Multi-family development in this area. The property is located within

Vision Area “F” of the Land Use Plan. The Medical Office zoning district designation is in conformance with the Land Use Plan recommendation. Mr. Lynch asked that the Findings of Fact be entered into the record.

Applicant: Arlington Crossing, LLC
Jim Moye, Managing Partner

Request: The applicants, Arlington Crossing, LLC., desire a special use permit to allow a Salon pursuant to Section 9-4-78(f)(8)f of the Greenville City Code.

Location: The proposed use is to be located along the 1864 block of West Arlington Boulevard, directly in front of the new Physicians East building. The property is further identified as being a portion of Tax Parcel Number 48582.

Zoning of Property: MO (Medical Office)

<u>Surrounding Development:</u>	<u>Zoning</u>
North: Arlington Medical Park Railroad Tracks	MO (Medical Office)
South: Vacant	MO (Medical Office) RA-20 (Rural Residential)
East: Physicians East Facility	MO (Medical Office)
West: Vacant	MO (Medical Office)

Description of Property:

The lot has 5.45 acres with 857 feet of frontage along Arlington Boulevard. Arlington Crossing development consists of 56,670 gross building area. Parking for the project as a whole complies with the required retail parking standards. The applicant proposes to occupy unit ‘H’ of the attached site plan.

Comprehensive Plan:

The property is located within Vision Area "F" of the Comprehensive Plan.

This property is located in the “Medical Area” uses in this area should support the medical professionals and clientele. The Land Use Plan Map designates the subject property as Office/Institutional/Multifamily. The current MO (Medical Office) zoning district designation is in conformance with the land use plan recommendations.

Sec. 9-4-57. MO medical-office.

The MO district is primarily designed to provide for general business, professional offices and institutional uses, as well as to provide additional areas for medical offices and clinics to locate in a professional office environment. In addition, the district shall prohibit commercial and industrial land uses, which can generate large traffic volumes, and shall encourage the development of areas that will serve as a buffer for residential zoning districts.

Notice:

Notice was mailed to the adjoining property owners on April 13, 2006. Notice of the public hearing was published in the Daily Reflector on April 17, 2006 and April 24, 2006.

Staff Recommendation:

Based upon the information provided the proposed request is able to meet all applicable standards for the issuance of a special use permit. Planning staff does not object to the proposed request.

Mr. Jim Moye, Managing Partner of Arlington Crossing, spoke on behalf of the request. Mr. Moye stated that the site will be a salon or full service day spa. Mr. Moye stated this will be an asset to the area.

No one spoke in opposition.

Chairman Wubneh then read the criteria in granting/denying a special use permit.

Motion was made by Ms. Bellis, seconded by Mr. Harwell, to adopt the proposed findings of fact and evidence presented. Motion carried unanimously.

Motion was made by Mr. Ward, seconded by Mr. Wright, to approve the request. Motion carried unanimously.

Based on the facts found by the Board and the evidence presented, the Board orders that this permit be granted and subject to full compliance with all of the specific requirements stated in the Zoning Ordinance of the City of Greenville for the proposed use.

REQUEST FOR A SPECIAL USE PERMIT BY WINTERGREEN INVESTMENTS, INC. – GRANTED WITH CONDITIONS

(This is a verbatim transcript)

Chairman Wubneh: I'd like to move on to the fifth item on the Agenda. A public hearing on a request for a special use permit to allow a veterinary clinic at 201 East Arlington Boulevard. The applicant, Wintergreen Investments, Inc. has requested a special use permit to allow a veterinary clinic, pursuant to Section 9-4-78(f)(7)(f) of the Greenville City Code. The proposed is to be located at 201 East Arlington Boulevard and is further identified as Tax Parcel 32083. I now open the public hearing on this case. Those wishing to speak for or against this application please come forward and get sworn. Thank you, Mr. Lynch could you give us the preliminary report of the staff.

Mr. Lynch: The subject site is located on the 200 block of East Arlington Boulevard, right at the corner of Clifton Street and Arlington. It is formerly the Remax office surrounded by commercial uses on all sides. The proposed here is a site plan that is an existing structure with driveway access on to Arlington Boulevard. The property is zoned General Commercial. Surrounded on all sides by General Commercial uses. The Land Use Plan calls for commercial use for the subject property and is located in Vision Area "D" of the Land Use Plan. It is located on a major thoroughfare being Arlington Boulevard. The lot in question is a 19,000 square foot lot and the structure has 4,200 heating square feet. There are up to 23 available parking spaces. Veterinary hospitals and clinics require five spaces per practicing veterinarian plus one space per employee. Notices were mailed to adjoining property owners on April 13th and the public hearing was placed in the Daily Reflector on April 17th and April 24th. Does the Board have any questions?

Applicant: Wintergreen Investments

Request: The applicant, Wintergreen Investments, a special use permit to allow the operation of a Veterinary Hospital pursuant to Sections 9-4-78(f)(7)f of the Greenville City Code.

Location: The proposed use is located at 201 East Arlington Blvd. The property is further identified as being Tax Parcel Number 32083.

Zoning of Property: CG (General Commercial)

Surrounding Development:

Zoning

North: Commercial Offices	CG (General Commercial)
South: Commercial Offices	CG (General Commercial)
East: Commercial Offices	CG (General Commercial)
West: Commercial Offices	CG (General Commercial)

Description of Property:

The subject property is an existing parcel is located at the northeast corner of Arlington Blvd and Clifton Street. The lot is approximately 19,000 square feet with 4283 heated square feet. There are 23 parking spaces available. Veterinary hospitals and clinics require five spaces per practicing veterinarian plus one space per employee.

Comprehensive Plan:

The property is located within Vision Area "D" as designed by the Comprehensive Plan. Management actions for Vision Area "D" prohibits the expansion of commercial areas outside the existing commercial nodes. The Land Use Plan map recommends commercial uses for the property.

Notice:

Notice was mailed to the adjoining property owners on April 13, 2006. Notice of the Public Hearing was published in the Daily Reflector on April 17, 2006 and April 24, 2006.

Staff Recommendation:

Planning staff is of the opinion that the request can meet all the development standards required for issuance of a special use permit upon proper findings by the Board.

Chairman Wubneh: Does the Board have any questions for Mr. Lynch? Would the applicant's please come forward please and tell us about this application.

Mr. Mike Baldwin: Thank you Mr. Chairman and Board members. I'm Mike Baldwin, I represent Wintergreen Investments. That's a company owned by Shirley Morrison and J. R. Hardee, both of Pitt County. They have this property currently under contract with Dr. Dale McLawhorn. I'm sure all of ya'll are familiar with him he's been right there across from Pizza Inn down near Carolina East Mall for, ever since I've been in Greenville. He's been my veterinarian ever since I've been in Greenville. His existing building, there is a Sonic going up there now is what I've been told. He desires to move his veterinary clinic over to this location. There is, as you can see in the site data, we have almost twice the parking needed. We have adequate ingress and egress to the site. As Mr. Lynch has eluded to it is in compliance with the Land Use Plan. There will not be any outdoor boarding of animals so it will be a very low intensive use to the surrounding properties. Dale has been a veterinary here a long time and I hope this Board sees fit to allow him to be able to occupy this facility. I know to the north of the site is the photography business, to the immediate east is a vacant lot and then COECO right beside that. To the west is a vacant lot owned by Ms. Crisp and across the street is Clark Branch's office. I think with respect to it not being any outside boarding of animals I think this is going to be a peaceful operation. I don't think it would be a detriment to any of the nearby businesses. I'll be glad to answer any questions ya'll might have.

Chairman Wubneh: Does the Board have any questions for Mr. Baldwin? Ms. Bellis?

Ms. Bellis: It says here the proposed use is outpatient veterinarian office. Does that mean that there won't be any animals boarded overnight?

Mr. Baldwin: That's right.

Ms. Bellis: So I assume there are arrangements with other vets if an animal comes in and needs attention and needs to be taken somewhere over night?

Mr. Baldwin: Yes madam.

Mr. Ward: Where is Dr. McLawhorn at the present time?

Mr. Baldwin: Mr. Ward I was thinking the same thing. Ms. Morrison you might, ya'll might can answer that.

Mr. J. R. Hardee: He has a mobile veterinary clinic that's temporarily set up outside of Target's parking lot waiting for him to find a suitable location.

Mr. Ward: Thank you.

Chairman Wubneh: What's the size of the staff that you would be having. That has implications in terms of the parking.

Mr. Baldwin: Two veterinaries and two employees.

Chairman Wubneh: So that you mean..

Mr. Baldwin: Fourteen parking spaces are required and we have 23 on site. This use to be the Coldwell Banker's, then it went to one other use and then Remax and this is where I first had my office. I use to rent it from Bill Blount when I first went into business.

Chairman Wubneh: I just want you to be aware of the implications any time you expand either because of staff or adding another veterinarian there's implications in regards to the parking.

Mr. Baldwin: Sure, I understand and that's why I noted that we do have almost twice as much as needed.

Chairman Wubneh: Another questions for Mr. Baldwin?

Mr. Baldwin: Thank you.

Chairman Wubneh: Any one in support of this application? Anyone opposed to this application? Please state your name for the record in the mike and tell us your

concern.

Mr. Charles Vollertsen: My name is Chuck Vollertsen. I'm the co-owner of Images Photography next door. I only have two questions and you answered one of them about the noise level. The other thing I would hope is that the special use permit would require that if in the future Dr. McLawhorn sold the business to another veterinarian that they would have to come and appear before the Board again if they want to board animals. The other question I had was now does the disposal the animal waste and/or surgical bandages, things of that nature, that if put outside in a dumpster would not be a healthy situation.

Chairman Wubneh: Any questions?

Mr. Lynch: Mr. Chairman I can assist a little bit here, the boarding of animals is strictly prohibited. The clinic is subject to a special use permit. The boarding of animals is prohibited in that zoning district so boarding would not be prohibited at all. As far as the change of use if the business ceases, the clinic ceases to exist for a period of six months then if someone else would like to go in there they would have to re-apply. Now if they're marketing the business for a clinic, an animal clinic, that shows an attempt to continue the use as an animal clinic then they would be allowed to continue there. However, say for example, it closes and a realtor office goes back in there that's a change of use and that permit would be expired.

Mr. Vollertsen: Okay, can you address the problem of the animal waste and surgical waste that would be generated by this?

Mr. Lynch: I wish I could but I don't know the details of how that is typically handled but I don't believe there is anything in our code that would address that other than nuisance.

Mr. Vollertsen: My main concern, of course, if it were just put outside in a dumpster that would attract flies.

Mr. Lynch: Well the nuisance codes would then be applicable in that case.

Mr. Vollertsen: Okay. That's all I have.

Chairman Wubneh: Thank you. Any other questions? Anyone else who would like to speak opposed to this application?

Mr. Ken Stallings: Thank you, I'm Ken Stallings. I'm manager partner of J & K Properties and also co-owner of COECO, which I own the property directly next to the property which is 203 E. Arlington Boulevard also 205, I own both properties. I really have more of a concern than, I'm a lot like Chuck, the property next door, 203, is a vacant lot which it plans to be developed in some point in time. It's just maintained as grass and so forth and it's kind of a natural area, especial if you've got animals for them .. before they go inside if they need to walk them to relieve them or whatever, as far as animal waste. I think that could be an issue there. That's a real concern I have. The other thing Arlington Boulevard as everyone knows is a very congested thoroughfare. If you've got animals in a vehicle it could be a hazard as far as that particular area it's very heavily traveled so that's pretty much all I have. Mainly more or less concerns.

Chairman Wubneh: Thank you. Questions for Mr. Stallings from the Board? Yes Mr. Baldwin rebuttal you're allowed.

Mr. Baldwin: Thank you again Mr. Chairman. All I'd add is as far as the waste disposal and the disposal of syringes and surgical supplies like that I'm sure we have state and federal laws that pertain to that and Mr. McLawhorn has been in business a lot time and I feel sure that he will comply with all those. There is a lot of traffic on Arlington Boulevard. It's probably less though than what was on Memorial when he was over there. I understand their concerns and I think they're good concerns. I think they asked good questions. With our laws that are in place I think that will take care of itself. Certainly knowing Mr. McLawhorn like I do if Mr. Stallings did have a problem with the dogs going over there and taking care of their business he could say something and Dale could remedy that extremely quickly. I appreciate their concerns and I hope I've done a satisfactory job of answering them. Thank you.

Chairman Wubneh: Any questions for Mr. Baldwin before. Let me just understand correctly the opposition raised. First there was the question of noise and I don't think, it didn't feel strongly about it but there is this question of waste disposal and particularly materials used by the vet in the office. I know you try your best to make sure that none of that stuff is disposed in the garbage but I feel strongly that maybe this is one of the conditions that we want to put in the application. I don't know how the Board feels. There may have to be a condition that if any animal waste and that's what I was trying to draft, and materials used by the office should be properly disposed of according to state regulations.

Mr. Baldwin: That's fine.

Chairman Wubneh: Thank you. Another and that way their concerns would be addressed I think. Anyone else to speak against this application? Members of the Board I now close the public hearing and call for Board discussion. Please keep your mike open. Any discussions for the city? I need first to hear the city's position.

Mr. Lynch: The city staff is of the opinion that the proposed can meet all development standards and has no objections.

Chairman Wubneh: Thank you. Members of the Board I now close the public hearing and call for Board discussion. Please keep your mike open. Mr. Harwell.

Mr. Harwell: I would make the comment that I have some concerns about the waste disposal also. I would at the appropriate time want to include a condition that waste disposal shall be in accordance with state, county and municipal laws and regulations.

Chairman Wubneh: I believe ..

Mr. Shook: (Unclear) federal too?

Mr. Harwell: I'll add federal to that.

Mr. Little: As far as the bio-hazard which would be the surgical, municipal bi-products, the North Carolina Administrative Code has provisions that mandates how doctors, veterinarians dispose of bio-hazard and that is part of their requirements and they are inspected on that. It comes up under the public health requirements as well as state regulatory requirements. That is a requirement whether or not the Board puts bio-hazard material as a condition. You could make it a finding of fact that there is a concern of compliance as expressed by my neighbors. You can make as a finding of fact that there is a concern of natural animal bi-products or whatever natural animal waste. I'm trying to be as tactful as I possibly can.

Chairman Wubneh: I think waste would probably be the generic term.

Mr. Little: Then as a condition that a, if the Board was so inclined, putting that in the finding of fact could say that the petitioner would be required to dispose or have

animal waste disposed of consistent with the City of Greenville's nuisance code for violations, code section as well as health requirements. That would then fall under health as a public nuisance potential because we address that. Nuisance requirements would fall in a lot of times when we have residential areas where somebody has tress down, overgrown weeds and that allows water to collect mosquitoes so that would fall under, it would not be a stretch to make it fall under the nuisance (unclear).

Chairman Wubneh: Help me here I need a little clarification. One of the concerns was there was a little field on the side which is not on the site that the request is. Are they going to be held responsible for cleaning that too?

Mr. Little: If people who bring their animals to the clinic were to allow their dogs to wander over and using Mr. Baldwin's language, take care of business, if the owners of that property made the observation, became concerned, they could address it specifically with the operator of the clinic. They could then take care of that issue. If the owner did not either stop people from doing that or refused to clean it up then what would happen is the adjacent owner could make contact with the Neighborhood Services folks with the city to come out, inspect it and see what's there. It would not be rocket science to figure out where the problem is coming from. They could then address the issue through the city's code enforcement (unclear) and would not require additional conditions. That is available to the folks without adding any additional conditions (unclear) lot next door.

Chairman Wubneh: So the condition that the Board is going to put applies only with reference to any waste or hazardous materials that is on site?

Mr. Little: On site yes sir. If there is a neighbor problem that could be addressed using the standard procedure for code enforcement.

Chairman Wubneh: Okay, thank you. I believe we were discussing members of the Board any further discussions? Members of the Board this is a special use permit and I will now read the criteria by reference. If you want a vote please stop me.

Mr. Harwell: Do we have in the record enough information concerning the waste disposal matter?

Chairman Wubneh: In the application?

Mr. Harwell: No, in the record so far. Evidence in the record.

Mr. Hutchens: You mean the condition?

Mr. Harwell: To establish a condition on ..

Chairman Wubneh: When we get to the finding of facts that's what I was. I think what we will do first is we'll go over the criteria and move on to the findings of fact. We will Mr. Harwell you can prepare to put the findings of fact as you wish incorporating both Mr. Little's suggestion and yours or maybe if necessary to combine them and we'll handle them at that time. This is a special use permit and I will read by the reference, if you wish a vote please stop me otherwise by your silence it is recognized that you are voting in favor of the application. Conditions and Specifications, Comprehensive Plan, Health and Safety, Detriment to Public Welfare, Existing Uses Detrimental, Injury to Properties or Improvements, Nuisance or Hazard. Hearing no negative votes I will now move on to the adoption of the findings of fact. We're approving the findings of fact. Before we approve it now we are ready to include the condition that you would like to be included as part of the findings of fact.

Mr. Harwell: My motion would be that waste disposal, including bio-hazard waste materials, shall be disposed of in accordance with federal, state, county and municipal laws and regulations and that animal waste be handled in concert with the City of Greenville nuisance regulations or words to that affect.

Chairman Wubneh: Thank you Mr. Harwell, I wouldn't attempt to summarize or repeat that one but I hope that Kathy has picked up that condition. I believe we could approve it as part of the findings of fact which would include the conditions.

Mr. Little: Since there was testimony regarding the issues of hazard waste and disposal the Board can find that as a fact and then add animal waste disposal compliance with the, that was (unclear) include that as part of its findings.

Chairman Wubneh: We do not need any separate vote on his conditions?

Mr. Little: You can move, he's made a motion to include that into the standard

findings of fact as additional facts that are found. We have a motion and then there would need to be a second and a vote on that and then that way they would be included in your basic findings of fact.

Chairman Wubneh: Motion to approve the condition included by Mr. Harwell.

Ms. Safford-White: So moved.

Chairman Wubneh: Motion by Ms. Safford-White. Second?

Mr. Hutchens: Second.

Chairman Wubneh: Second by Mr. Hutchens. Those who are in favor of including the condition please indicate by saying "Aye". Opposed? Motion to approve the findings of fact including the addition by Mr. Harwell.

Mr. Harwell: I move.

Mr. Wright: Second.

Chairman Wubneh: Motion by Mr. Harwell and second by Mr. Wright. Those in favor of approving the findings of fact please, indicate by saying "Aye". Opposed? I'd like to get another motion to approve the petition.

Mr. Harwell: Motion.

Mr. Wright: Second.

Chairman Wubneh: Mr. Harwell as motioned and Mr. Wright has seconded. Those in favor of approving the application, please indicate by saying "Aye".

Mr. Little: Are you going to, you made those findings of fact, are you going to add conditions because I know there was discussion about that.

Mr. Harwell: The intent was for those conditions to be added.

Mr. Little: Okay, then what you would need is to have a clear motion because your motion was simply to approve the petition. You want to make a motion to approve the petition with those conditions added.

Mr. Ward: So move.

Mr. Harwell: The condition be the same words as before.

Chairman Wubneh: Motion to approve the petition with the conditions included as stated earlier.

Mr. Ward: Mr. Harwell makes that motion I second it.

Chairman Wubneh: Mr. Harwell made the motion and Mr. Ward seconded it. Those in favor of the motion with the approved conditions, please indicate by saying "Aye". Opposed? Thank you for coming your application is approved with conditions.

REQUEST FOR A SPECIAL USE PERMIT BY GREENVILLE MASONIC
TEMPLE – GRANTED WITH CONDITION

(Verbatim transcript)

Chairman Wubneh: We'll now move on to item six on the agenda. A public hearing on a request for a special use permit to allow a principal use parking lot at 1104 Charles Street. The applicant, Greenville Masonic Temple, has requested a special use permit to allow a principal use parking lot, pursuant to Section 9-4-78(f)(13)(h) of the Greenville City Code. The proposed is to be located at 1104 Charles Street and is further identified as Tax Parcel 29048. I now open the public hearing on this case. Those wishing to speak for or against this application please come forward and get sworn. Mr. Lynch would you give us the preliminary report by the staff.

Mr. Lynch: Thank you. This is a request by the Greenville Masonic Lodge for a principal use parking lot at 1104 Charles Street. Charles Street runs into Charles Boulevard, landmark at that location is the Domino's Pizza place. The parking lot being proposed is at the intersection of Lawrence and 12th. This being 12th Street, Lawrence Street here (pointing to map) and Charles Street over here. The lodge is located right here and the proposed parking lot would be on a separate lot with access onto, driveway access onto Lawrence Street. The proposed will have 39 parking spaces. The property is zoned Office-Residential and a principal use parking lot requires a special use permit in the OR district. The Land Use Plan calls for Office/Institutional/Multi-family. There is a tremendous amount of multi-family development on the peripheral of this lot. There are fraternity and sorority houses to

the north, apartment complex to the east and to the south. The property is located within Vision Area “I” of the Land Use Plan which recommends Office/Institutional/Multi-family and it is in general conformity with that plan. Notices were mailed out to the adjoining property owners on the 13th and published in the Daily Reflector on the 17th and 24th of April. There are two thoroughfares in the vicinity, Charles Boulevard and Tenth Street. This whole area is majority student housing neighborhood and there is quite a bit of street parking overflow from this apartment complexes in this location. Does the Board have any questions?

Applicant: Greenville Masonic Lodge

Request: The applicant, Greenville Masonic Lodge, desires a special use permit to establish of a principal use parking lot pursuant to Section 9-4-7-78(f)(13)h and 9-4-86(v)(1) of the Greenville City Code.

Location: The proposed use is located at 1104 Charles Street. The property is further identified as being Tax Parcel Number 29048.

Zoning of Property: OR (Office Residential)

Surrounding Development:

Zoning

North: Fraternity & Sorority Houses

OR (Office Residential)

South: Residence

OR (Office Residential)

East: Green Mill Run Apartments

OR (Office Residential)

West: East Coast Music

CDF (Commercial Downtown Fringe)

Description of Property:

The subject property is located at the intersection of Lawrence Street and Twelfth Street. The property totals 22,128 square feet. The proposed parking lot will have 39 parking spaces with driveway access on Lawrence Street.

Comprehensive Plan:

The property is located within Vision Area “I” of the City of Greenville

Comprehensive Land Use Plan, which recommends Office/Institutional/Multi-family use for the subject property. The proposed use is in general conformity with the Land Use Plan

Notice:

Notice was mailed to the adjoining property owners on April 13, 2006. Notice of a public hearing was published in the Daily Reflector on April 17, 2006 and April 24, 2006.

Staff Recommendation:

Staff is under the opinion that the request meets all the development standards required for the issuance of a Special Use Permit. The proposed must have site plan approval for a parking lot.

Chairman Wubneh: Does the Board questions for Mr. Lynch?

Mr. Ward: Do you know whether or not this will be leased parking when the Masonic Lodge is not meeting?

Mr. Lynch: The applicant can address the specifics on that.

Chairman Wubneh: There is parking allowed on side streets?

Mr. Lynch: At that location I saw a couple of no parking signs and some two hour parking signs but when I went out there were quite a few cars parked illegally.

Chairman Wubneh: Well, I'm talking from the city's regulations point of view, if there's no parking or you can park for two hours?

Mr. Lynch: Depends on whatever is posted.

Chairman Wubneh: Will the applicant come forward and please tell us about this application.

Mr. Mike Baldwin: Thank you Mr. Chairman and Board members, I'm Mike Baldwin. I represent the Greenville Masonic Lodge. I think this, it was a win, win, but now maybe it's a win, win, win, if we can get some cars off the street. I think as

you all well know parking is a problem for students attending classes in that area. I think this will provide a relief to some of that as well as it will provide a means of income to the Greenville Masonic Lodge. Mr. Ward as you asked, yes this will be leased parking. We have plenty of parking of the existing parking on the building for their routine meetings so this will be exclusive of this. We will have some kind of roped off fence that separates this from the parking that is currently used by the Masonic Lodge. As Mr. Lynch said it is in compliance with the Land Use Plan. If you will look at your, on your report, the surrounding uses I think you will find that it doesn't present a nuisance to the surrounding uses. As I stated before it is very close to proximity of a lot of the classrooms and things so it's walking distance for these people. To be frank, what the Masonic Lodge is doing is trying to, as well as provide parking for people, it's providing them some income for land that they are not using right now. It's a lot of good centipede growth grass back there other than that I'll be glad to answer any questions you'll might have.

Chairman Wubneh: Any questions for Mr. Baldwin? Yes Ms. Bellis.

Ms. Bellis: Will this be screened or have vegetation around it?

Mr. Baldwin: We have to meet the screening requirements required by your city ordinance. Yes madam.

Mr. Ward: There are no structures currently on this property?

Mr. Baldwin: Not in the area where we propose for the special use permit, that's right.

Mr. Ward: It is not paved at the present time?

Mr. Baldwin: No, it's a good stand of centipede sod out there.

Ms. Safford-White: Is there any parking taking place there now?

Mr. Baldwin: Not to my knowledge

One of the men in audience: Yes there is. If you look at the overhead shot from the city there is parking (unclear). It has been used for parking since we had the property but our lodge is not that active so we don't need that additional space.

Mr. Harwell: Is it an additional 37.45 feet which it appears that the parking area could be larger. Is there a reason for not including that 37.45 feet?

Mr. Baldwin: Sure is Mr. Harwell and I think you'll understand this. We're trying to keep the disturbed area on this area under ½ acre so we don't fall under the stormwater requirements.

Mr. Harwell: Thank you. I noticed it's not to be paved is going to have CAB.

Mr. Baldwin: Yes sir.

Mr. Harwell: They do know that CAB is included as imperious area for stormwater fees.

Mr. Baldwin: Right.

Mr. Harwell: Okay. Didn't want that to not be included in the financial calculations.

Chairman Wubneh: Any other questions for Mr. Baldwin from the Board?

Mr. Baldwin: Thank you.

Chairman Wubneh: Anyone here in support of the application? Please state your name for the record.

Mr. Conrad Paysour: Mr. Chairman, my name is Conrad Paysour. I'm an attorney with Mattox, Davis, Barnhill, Paysour and Edwards. I'm also a member of one of the three Masonic Lodges that met in that building. I have with me tonight two other members Mr. David Stapleton and Mr. Stephen Natale. I'm the one that actually wrote the application and I think Mike has done a great job summarizing what we're trying to do. Like a lot of fraternal charitable organizations we have an aging membership and we're trying to come up with a way to support the maintenance of the building. The building has been there since the late 50's I believe it was, 1963. We were trying to address a way to raise money and this frankly was a brilliant idea that was brought up by our Temple Board because it fit so well with the neighborhood. There is a lot of parking that takes place on the street. It is

predominately a student area, it's dominated by the university. This will nicely dovetail into our plans as well as provide much needed parking for a growing university. We hope that you will look favorably upon our plan. Do you have any questions for me?

Ms. Safford-White: So your targeted group that you're looking for is to sell to the students in that area or just anyone that's in that area that needs.

Mr. Paysour: Anyone in the area that needs leased parking for a long term basis. It will predominately be students as is the nature of the area. We have thought very carefully about how to regulate the parking. We will have stickers, we will have towing in place, we have even discussed ways to make sure that we have copies of automobile insurance. We are very cognizant of trying to regulate and have a good fit for the area and at the same time will meet our needs. Do you have any further questions?

Chairman Wubneh: I have a couple of questions. Number one is, is there only one access driveway access or... how many accesses does it have? It says driveway access on Lawrence Street. There's only one driveway?

Mr. Paysour: There will be one access into this parking lot and it will be in the corner where there is a.

Several people talking at once.

Mr. Paysour: There's currently a fence that surrounds the whole lot and we will have to open an area in the fence and also cut through the curb that is there but that will be the entrance. You can see that we have the landscaping in place in accordance to the requirements of the code. There is a driveway already in there but we have a fence that cuts it off.

Chairman Wubneh: The other question I have is I assume some of the people who are leasing this land, they could keep their cars overnight, correct? Or is it only daytime because I'm looking at the question of safety. Sometimes parking areas have a problem of safety because there could be people who wander around, breaking, so and so forth. Do you have any kind of security system or do you intend to have something along that line?

Mr. Paysour: It will be regulated parking in that you will have to have a sticker and we will have towing in place. Beyond that I'm not sure there's much more we can do. Frankly, it's an open lot as it is and if there's going to be people congregating there it's going to happen. Our parking lot is already open. We will regulate this to the best of our ability because we have membership that also has raised these concerns. We are looking very diligently into having good regulation of lot.

Chairman Wubneh: I was also thinking in terms of for example, if it's overnight, a light system that you have, a good light system, or every now and then somebody walks around because if a lot of people start congregating there and cars get broken into it could potentially be a nuisance to other people in the neighborhood in terms of property owners. I'm just raising that as something to think about or be concerned about.

Mr. Paysour: I'm going to let Mr. David Stapleton, he is on the Temple Board and he has looked diligently into that question.

Mr. David Stapleton: I don't know if I looked diligently into that specific question Mr. Chairman and Board. There is currently some lighting there. We are in anticipation of having to add additional pole with additional lighting to illuminate the area. As Conrad said we feel like we're looking at this very closely. We're contracting with not actually contracting we actually have talked to a towing company that will patrol it as often as we asked them to patrol it. They provide 24-hour towing and if we decide to have them come through on a bi-hourly basis at night I think they would probably do that as well if we need to. Past that, this is essentially an area that, there's already parking use. We have frequent, in past have had our lot torn open by people coming through there at night and just deciding that's a nice area to spend cars around so to some degree we're limiting some of the damage we've faced in the past by controlling the access to the entire parcel. It's mentioned that we'll have it corded off either by chain or some sort of fencing so that it is separated from our parking lot. We still have plenty of adequate spaces around our lot. If we find that we need to put up additional lighting, yea, we intend to go in that direction.

Chairman Wubneh: Any questions from the Board.

Mr. Ward: Have you any indication, have you decided how much you're going to charge per space. I see there is 40 spaces.

Mr. Paysour: As much as we can.

Mr. Stepleton: We've spoken with the university and it has been passed on to us through their parking officer over there that it may indeed be of significant use to some of the faculty there on campus. It may not be strictly students. We do intend to market to the local high schools for incoming freshman for parents that are concerned about their children having to park their cars all the way out on a remote lot and don't have access to their cars 24 hours a day. This will be close to campus, they could conceivably walk to their cars and gain access and leave immediately if they need to.

Chairman Wubneh: Anyone in support of this application?

Mr. Stephen Natale: My name is Stephen Natale. I'm a member of Crown Point Lodge 708. I think Conrad's done a beautiful job of presenting most of the points that we wanted to make and being for this proposed parking lot. I just wanted to add that attending all of the Temple Board meetings myself that as we looked at some different aspects that this particular plan was put together because of the win, win, concept. Parking for ECU, when I look at freshman having to be bused all the way from the end of Dickinson Avenue as far out as it's getting now, that our proximity was so close to the university that we just felt that it would be a gold mine for people that really wanted some in-close parking as close as we are. With an aging membership our numbers are dwindling. Our budget probably runs over 20 thousand dollars a year. This was an opportunity as we kept going to less members to ask for more money but this was a solution to help us, help the community and help the students so we felt we had a win, win all around. Thank you.

Chairman Wubneh: Any one have questions? Anyone here to speak in support of this application? Anyone opposed? Please state your name for the record.

Ms. Anna Weaver: Thank you Mr. Chairman I'm Anna Weaver. I am the Chapter Advisor for Gamma Phi Chapter of Alpha Xi Delta and that house is located on 508 East 11th Street and adjoins this property. I have not spoken before this Board before so I would like some direction in that could we put the plan back up that is more detailed and answer some questions that I might have as well that they did not address in their presentation. I think my concern and just to look at the traffic flow and to get an understanding of where the parking lot will but up to the Alpha Xi Delta house. What distance is that? If they are saying the north corner that is up next

to the Alpha Xi Delta house I'm assuming not down on 12th Street but on the side street. I'd like to know about that. What kind of screen requirements are there that would be around this parking lot and we talked about the parking and I would like to just clarify a statement that we have parking. When I've been to the sorority house there is parking down 12th Street, I mean down Lawrence Street and I'm not sure if there is parking on the street at the back. I know that's where the entrance comes in now. There is a chain link fence that is probably 5 feet high, 6 feet high, that separates the Alpha Xi Delta property from this lot and it goes across the back of our lot and down Lawrence Street. I just wanted answers to those questions. The other issue that I do have is with the lighting and to really decide what kind of lighting would be in that parking lot with that many parking spaces. We have approximately 65 members in Alpha Xi Delta Gamma Phi and 20 women live in the sorority house. I was appointed last year by a national to be the Chapter Advisor for a 2 year term and when I, last July, started looking at the house, looking at what housing corporation had done with the house in the past years and what we needed to do with the house in the future. One of my very first concerns when I went around there was safety for the Alpha Xi Delta's. There was shrubbery that was up to the second floor of the AZD house. There was shrubbery across the back of the lot by this chain link fence. We went in and took out major shrubbery to open up the area so that, we felt like the girls walking from the back parking lot to the front, that someone could be hiding in that shrub. We did put up some additional lighting this past year. In the last few weeks I have had an electrical contractor go over there and look at the property. We are doing major renovations to that property this summer and have gotten quotes for adding additional lights to shine down in our parking lot. To also put a light on our back house that shines back into the corners of our house and all that is area that will be backed up to this parking lot that is proposed. I think if we look at the traffic patterns all of the traffic seems to be coming off of 10th Street or off of 11th Street going down Lawrence. Right beside the AZD house, turning in right behind the AZD house as I see it now. Maybe we could find out exactly where there's going to be. I don't know that the street is adequate to support the kind of traffic that will come through there. As they said there is a lot of traffic that's through there now. There is a number of cars that park there regularly to the extent that the Alpha Xi Delta's do not have places to park their cars. If you go down on a chapter or dinner night or when we have a meeting we're all parked jammed up in our back yard. What I would also like to know is if this is approved does the parking go away on the street and when you think about the people exiting and entering the parking lot. What is the visibility to the pedestrians walking up and down the street if we leave the city parking as it is. I lived in this house in the late 70's for 3 years and was the

Chapter President and also the Chapter Advisor and had a very close working relationship and you may have been there at that time, at time in the 70's, we had cars go back there and park and they were peeping-toms. We had to call the police and they ran them off and the chain link fence was put up and that detoured some of the people coming across the property but that was the peeping-tom. As you all know, and if you would like to check the police records of Greenville, that area has had crime to the extend of hold-ups with a weapon of recent. I just feel like having 39 more people or 40 people in this area is just putting more traffic down there. If it was a faculty person as opposed to a student and it was limited parking that might be something to take under advisement but at this time it just seems to me that it's just too much of a risk. I would be interested in knowing about the fencing. As it is now the fence, I have also had fencing priced for the sorority property. We have a white PVC fence in the front yard but we have gotten quotes also for going down between the property between the ADZ house and the KA house and across the back with a 6 foot privacy fence just to try and keep our property safer. That is a big expense. It was not originally in our budget but that's something that I feel like we might need. I understand the need for the increase revenue for the Temple. I certainly do. I know this would be a hard decision for you to make but I feel it is an obligation of mine as Chapter Advisor to come and give you my concerns. It is solely based on the safety and welfare of the girls that are in that sorority house. To just put more traffic in that area I think is a mistake and I think that it would also limit the parking that is there now and not be a good idea for the Alpha Xi Delta Housing Corporation. I would appreciate it if you would take my comments and look favorably upon denying this application. I'd be happy to answer any questions.

Chairman Wubneh: Any questions for Ms. Weaver?

Mr. Ward: How many girls are currently living in the house?

Ms. Weaver: Twenty.

Mr. Ward: And how many vehicles are normally parked around the house?

Ms. Weaver: Well, you know twenty girls have twenty cars. About twenty and sometimes when they come to the sorority house and park they have to park all the way down at the end of Lawrence and that's an issue.

Chairman Wubneh: So your access is also from Lawrence Street?

Ms. Weaver: Yes. We go down 11th, turn onto Lawrence to the right and our parking lot is into the right behind the house.

Ms. Safford-White: How many slots do you have in the back? Your parking lot.

Ms. Weaver: We don't have parking lot, it's random, pull in there and if somebody has to leave you go move your car and let them out.

Ms. Safford-White: Okay, so can you describe to me again what your area looks like? Your parking area.

Ms. Weaver: Maybe on this plan, if you'll look up to the top underneath the "n" that is the property of the Alpha Xi Delta. We probably, it might be an area as big as this (motioning with hands) that we park our cars in now. We park along the front but KA has a nice parking lot beside their house but some of those students park on 11th Street and then as they said we have students that are trying to find parking spaces anywhere and they'll park in there as well. I have had conversations with some people in Greenville about dedicating that space around our fraternity and sorority house as designated parking for those areas.

Chairman Wubneh: Any other questions for Ms. Weaver?

Mr. Ward: One more, there is no access, there is a security fence between this parking lot and this house at the current time? A chain link.

Ms. Weaver: There is a chain link fence, how secure it is I couldn't tell you but there is a chain link fence that's about this high (indicating with hands). With lots of vines and things growing on it on our side of that chain link fence. At one time there was a treated salt lumber fence about the same height on this side. Our fence did not look good and we took out a major portion of that fence last year because it looked so bad when we were taking all the foliage off the fence and cleaning our area up and the chain link fence is behind that at the back of the Temple property.

Mr. Harwell: I notice on this plan that there is one power pole over on the, closely adjacent to the designated parking area that they are proposing. Would additional lights, parking lights, say sodium vapor lights at the four corners help your security

situations that you're talking about?

Ms. Weaver: Certainly if this Board decides to approve it I would appreciate that consideration of lighting. I will tell you I called the City of Greenville to get a light installed on the back of the property of AZD house and I understand that there is just a certain wattage that can be put in a neighborhood so it wasn't going to be very bright and they suggested to me to go and have an electrician put the flood lights on the back house so that I would have brighter lights. At this time, I've called to see if Greenville and there's a street light that's been out for ever on 11th Street. With the trees that are there it's very dark on 11th Street as well. I mean it's just, it's really an area that's not well lighted and I have to say anytime we've called Greenville Police they have responded, they have been there through holidays and breaks, they've been very responsive to our need. That area, it's pretty dark down there.

Mr. Harwell: The only reason I say that I've noticed four of these on a parking lot similar to this at our church that illuminate quite adequately. They go off, on a night, go off in the day time. That's why I was asking the question.

Chairman Wubneh: Any other questions?

Ms. Weaver: Could I ask you to put that map back up just one second I want to show you one more thing. At the hairpin down there on 12th Street when you come in by the Masonic and go down and then would take a left onto Lawrence that street dumps right into a parking, into the apartments that are there. I, myself, normally park on Lawrence and then drive down, take a right on 12th and go out that way. That area is really very close. I just think that is a problem with the increased traffic that will be there.

Chairman Wubneh: Any other questions that the Board may have? Mr. Baldwin you have rebuttal some of which are specific questions.

Ms. Weaver: Thank you.

Mr. Baldwin: Thank you Mr. Chairman and I appreciate Ms. Weaver's concerns. One thing I'd like for you to look at the site plan that I prepared. The existing chain link fence will be cleaned out and we have to install flat slats to provide a 100 percent visual barrier. What that has done is in accordance with your screening ordinance which allows us to go to a 10 foot bufferyard. It's a bufferyard "D" which

requires, I think it is, 3 large trees per 100 foot, evergreens; 4 small evergreens per 100 foot; and a variety of evergreen shrubs. If you'll look at offices that are built that are adjacent to residential lots that's what you'll see on the back. Those of you that are familiar with Bedford Commons and Bedford Park Offices that back up to Bedford, I did that project. We planted those with Leyland's and cedars and it is without the fence, it is a 100 percent visual buffer. I think the issue of having more parking in the area is a good thing for the sorority. If their, I mean I can tell by this, the size of their lot is approximately 145 feet deep by 120 wide. I would think that this is another positive for them. Some of the sorority sisters could look at leasing this instead of having to worry about getting out and moving cars in the middle of the night. During the day when they're not there I would think this would be a positive for them as well. In regards to lighting I think this is another positive for them. We will consult with an electrical contractor to make sure we have good illumination over this lot. Right now it's a dark lot. I think, I do understand her concerns but I think a lot of her concerns are going to be alleviated if this Board deems that this is an appropriate use here. I think it's going to help that situation. As far as the traffic you've got 39 parking spaces. I've never had to do a trip analysis on a parking lot, usually we do those in subdivision design, but I would think that maybe you're looking at 100 more trips per day on Lawrence Street. Which is not a significant increase. That's a 30 foot wide road on a 28 foot section you're allowed up to 1500 trips per day. I think alleviating some side street parking possibility will only help. I can only see good coming out of this request. I think, I hope I've addressed her concerns. If you wrote down any that I didn't I'll be glad to try to answer those.

Chairman Wubneh: Mr. Harwell has a question.

Mr. Harwell: As I understand it you would not object to a condition concerning lighting?

Mr. Baldwin: That's right. We want it to be well lit just as well they do.

Mr. Stapleton: I just wanted to address one question that she brought up was the exit from her property or entrance to her property and how this might affect it. It opens it up quite frankly and more we're going to have two adjacent driveways that there will be no parking in between so it's a farther opening down the road before a car can park if they use the normal yellow curb distance. Should be easier to enter and exit her property once this is there cause it will eliminate parking closer to her actual

driveway. It will probably eliminate two spaces I believe. We will be glad to work out an arrangement for rental spaces. No problem there at all. If it were an on-going thing would probably come up with a discounted price for people. It makes sense as I said, some of the young ladies there now are having to parking at the end of Lawrence or around the corner and that corner back there is extremely dark. With this illumination we're going to benefit by it based on the lighting they're putting in I don't know how they're going to stop the light from crossing over our border in mid air but if they don't we're getting a benefit from their lighting as well.

Mr. Hutchens: I have a question. I understand you're going to be patrolling your lot regularly for persons who should not be parked there.

Mr. Stapleton: Yes sir.

Mr. Hutchens: How about patrolling it for security purposes as well?

Mr. Stapleton: Conrad?

Mr. Paysour: You know I think we can slide down towards thinking that the parking lot is inherently dangerous. We shouldn't make that assumption necessarily. My thought is that we have an area that's unused now, it's just a vacant open lot of fill and centipede. If the lot is used and I think it would be used promptly by people in the area and it's that a good thing than having an open vacant field. We will have it lighted. We will be fenced. The other thought was Mike Baldwin estimated that 39 spaces might have a 100 trips extra a day. My thought is that the people who will use this parking lot maybe would be people who are already in the area. We can eliminate some of the street parking. We can offer spaces to sororities and fraternities that are already there. It seems to me that this is a benefit to the neighborhood than just having an open vacant lot that frankly we can't use. We desperately need the use of it.

Mr. Hutchens: If I could add, I take it that's a no.

Mr. Stapleton: We haven't discussed in detail about having some kind of private security firm. We plan to have, we plan to regulate it by having stickers, by requiring, we have even thought about having record checks done on individuals who would be leased a lot. We will have it towed to the extend that is a security precaution. If I could just add that to this point we are unaware of any record of

criminal activity or safety activity that there are problems there. We have people who are parked there overnight as it is. Some members of the lodge that have sons or daughters that are attending the university. We've given them permission to park there and they park overnight. We've not had any break-ins that I'm aware of or any vandalism other than to our property. I'm assuming the young ladies don't throw beer bottles as well as KA might cause those are the ones we find on top of our roof. We see it as just a normal community quite frankly. The emphasis from Greenville is to clean up that corridor and we feel like we're an integral part of that corridor and by allowing us to continue as a fraternity there or organization that is beneficial we feel like the community at large it only enhances that. It allows us to keep our property up and hopefully reduce the decline that has been going on in that neighborhood for sometime.

Chairman Wubneh: Any other questions from the Board? Yes.

Mr. Natale: The other thing that I wanted to add was that we have inquired to some of the parking lot in the vicinity and security was never really an issue. Lighting, regulating as far as patrolling, we contacted A & B and some of the other ones about making sure that the right people park there. None of the other parking lots, there's one on 10th Street, Dr. Bowman's turn that in, there were several around the area that had pretty much done the same thing. I understand there's one where houses were moved and a parking lot was created just for that purpose on 10th Street. Security was never an issue as far as what you're referencing.

Chairman Wubneh: I think the concern here there is a sorority next door. This is where 39 cars are parked overnight and it's a fairly good target for someone who is prowling and snooping around to look for cars but at the same time could be a threat to the girls when they are walking out or coming out. It's not the question of security for the purpose of seeing who is parking illegally, that's different. Their concern is the security of the girls who are going to be living adjacent. Do you intend, is what they are saying is do you intend to have a patrol or something along that line. I think that was the question.

Mr. Natale: Well it was and I understood that but having the illumination and so forth which doesn't exist now and the hap-hazard parking that the sorority ladies are having to endure right now. To me, as pointed out, this is going to be more secure because of the lighting and some of these stipulations that are going to be put in place.

Chairman Wubneh: Mr. Little.

Mr. Little: Just for the Board's process and decision making, as it goes through the review of what is evidence remember the Board can only act on what is submitted as substantial evidence. (Unclear) and concerns without concrete or factual basis to support are not admissible facts whether it is by the applicant or by any supporters or by any opponents. If an applicant says that in our opinion it is a secure area, first there has to be evidence that is an insecure area. There has to be a factual basis to term the area is not safe. If there is an opposition saying that if a parking is placed here that (unclear) at concern. They have to be able to present evidence, not opinion, not a concern, that as it relates to this particular property in this particular location that there is a safety issue and they have to be able to point to a specific facts to show that is a safety issue. Whether it's from the applicant, a supporter, or opponent, as to concerns as to possibilities as to what might if ever happen, that is not substantial evidence for the Board to concern. That might help you in formulating questions to applicants, to the opponents, or to the supporters of this and maybe beneficial to the Board in making its decisions. If you have a question about why there has to be evidence presented to the Board that lighting is a, the lighting in this area on this particular lot, is so inadequate that crime has occurred and point to a specific crime that occurred. If there is not that concern just because that becomes an opinion and opinions are not admissible evidence. What we want to do is, not steer you in any direction one way or the other, but it might help you in formulating a question to the applicants (unclear) or supporters as to what actual basis is and what is substantial evidence. We can be here all night and talk about what ifs. That might be beneficial to the Board in how they ask questions back to the applicants and how they're formulating this when they look at the criteria that we're addressing. This was an issue that was brought up on another property where concerns were an expression and as we learned concerns were not admissible evidence in terms of how it affected .. in that case it was tax value. However it relates to that specific property not something down the street. It has to relate... when the courts look at it the court looks at what is the substantial evidence as to those criteria to that particular property as the question is addressed not what might happen down the street. Unless there is some expert testimony that has been produced. Opinions, concerns, are not expert testimony whether by an applicant or an opponent or a supporter.

Mr. Harwell: Question. Do we have any record concerning criminal activity in that area?

Mr. Little: It's up to the applicants, to the supporters, to the opponents. If somebody says.

Mr. Harwell: Police reports? That we normally have.

Mr. Little: This would not be normally submitted as a Police Report on an applicant of this nature. The only time you're going to get Police reports involves public clubs.

Chairman Wubneh: Mr. Harwell do you want to continue on that?

Mr. Harwell: I'll just ask a question bluntly. Do you all have, has any crime to you'll knowledge ever occurred in that lot? What I'm looking for is justification for lighting frankly.

Mr. Paysour: I'm unaware of any kind of crime occurring. I've only been a member for about 5 years.

Mr. Stapleton: As far as I am aware the only thing we've had out there is we've had on occasional people come in the middle of the night and decide it's a great place to spin out cars. We've had grass and lawn torn up quite a bit out there but I haven't seen in the last 2 or 3 years quite frankly.

Mr. Harwell: Thank you sir.

Mr. Lynch: Mr. Chairman I'd like to make one statement. The site plan has it is submitted shows a, what we call a type "D" bufferyard which is a 10 foot buffer between the property line and parking lot along with a fully opaque either a hedge or fence, something of that nature. That is what is on the site plan but the city's requirement, however, would be classified as a type "B" bufferyard which is just a 4 foot separation between the property line and the edge of the parking lot with no vegetation requirements. Because of the type of use the parking lot is and the type of the use that the sorority house is the sorority house being a mixed zoning district office and residential it's not treated as a single family residence.

Chairman Wubneh: So the buffer is type "B" rather than type "D"?

Mr. Lynch: Yes, that's what the city standard would be. If the applicant is supposing

a greater bufferyard that would be something that the applicant is proposing and maybe a condition that this Board may want to consider.

Mr. Harwell: I'm glad to hear that because I had some concerns for security with the type buffer that was presented particular the opaqueness of it because that goes both ways. If it's dark and vegetated might be some of the same situations that they stated that happened in the past with people not being able to particularly seen from the sorority house but the sorority house be visible to them. The opaqueness had some concerns in my mind that might be more of a hazard than openness.

Chairman Wubneh: Perhaps that might be one of the conditions that we can put.

Mr. Harwell: Mr. Baldwin wants to make a comment I think.

Chairman Wubneh: Yes Mr. Baldwin.

Mr. Baldwin: I apologize for that being shown as a bufferyard "D". There is some provisions in the ordinance regarding the uses that I just apparently got mixed up on. I agree Mr. Harwell. When those leylands get up, you know how fast leylands grow. I think that is appropriate to share lighting and to reduce somebody hiding in those bushes. With a 4 foot bufferyard "B" that would not be required. The lighting that the sorority house has as well as the lighting that we had they can compliment each other.

Mr. Harwell: Would you make a change to your drawing?

Mr. Baldwin: Yes sir. I would like to enter into the record that we have that changed to and this would be, we have to go through a site plan process anyway and that is when it would be caught. I'd like to enter into this record that we change that to a bufferyard "B", 4 foot bufferyard "B" which does not have screening. All it is is merely a separation requirement. It's not a planning requirement.

Mr. Harwell: But you would keep it at the 10 feet?

Mr. Baldwin: Going to keep it at the 10 feet. Yes sir because we've already got everything laid out.

Chairman Wubneh: Mr. Little I believe you are thinking. This is being corrected the

application as we speak or is this something that we have to put in the conditions?

Mr. Little: They're making a correction. You can do it as a finding of fact that the applicant has corrected the proposed site plan to change the designation from "D" to a "B" as in baker. However they're going to keep the 10 foot, as I understand it, facing but eliminating the "D" delta requirements for trees, heights and opaque screening. Did I say that correctly Mr. Baldwin? That could be an additional finding of fact and should be since they've made that proposed correction to their application. That would be an additional finding of fact that the Board would make.

Chairman Wubneh: Mr. Harwell.

Mr. Harwell: Could I ask them to make or consider making one more change to this and similar to at least to add at least 4 one located near each of the 4 corners of the parking lot perhaps in the landscaping area sodium vapor or similar type lights to those provided by Greenville Utilities in yard lights to provide sufficient illumination for safety.

Mr. Baldwin: We're okay with that Mr. Harwell. One thing that I would like to too and just hear the Board's response to this is because of that bufferyard "D" is what triggered the visual barrier slats in the fence. I'd like to hear, we want to be good neighbors to the sorority house because it's not a "D" bufferyard we're not required to put that 100 percent visual buffer. I could ask this of Ms. Weaver would she prefer having the visual buffer giving it some plastic slats put down in the fence or not and have it open?

Ms. Weaver: I would not want someone to be able to walk on the back property (unclear).

Mr. Baldwin: We're going to leave the fence.

Chairman Wubneh: Okay, I think at this point we want to do is basically,(unclear) that's the direction of the Board is moving. We would put it has a condition.

Mr. Harwell: I'm in concert with the visual slats not being there so that you could see from a sorority house through the fence. Understand what I'm talking about?

Mr. Baldwin: We're fine with that.

Chairman Wubneh: Anyone else here in support, any more questions before I move on?

Ms. Weaver: I have a question.

Mr. Lynch: Ms. Weaver you need to come to the mike.

Ms. Weaver: He was sitting down.

Chairman Wubneh: It won't be in the record if you're sitting down.

Ms. Weaver: I just wondered why is the parking lot so close to the AZD house? Why do we have it right there with the turn, right by the AZD house rather than pushing it further down into the lot on 12th Street. My other concern, we want to be good neighbors too, but it is my obligation to come and speak on behalf of these girls so I hope you understand that. We have a dumpster on one side of the street on Lawrence, the house across the street has another dumpster, I can see every morning right where that driveway is going to cut in there, we're going to be dumping trash. It's very congested right there in that area.

Mr. Ward: Has nothing to do with this.

Chairman Wubneh: I think that's probably something

Ms. Weaver: But it does in regards to the increased traffic being there and when you read some of the items that you have to vote on.

Chairman Wubneh: I think those kinds of things might be that you and Mr. Baldwin and the gentlemen probably could get together and in the interest of being good neighbors negotiate or talk about that one. The Board is particularly concerned about some of the major issues that you raised earlier and I believe we have captured at least two of them. One is the question of safety and probably with an inclination looks like we'll be able to address that with respect by using the lights and also by the type of buffer that it is going to require.

Mr. Harwell: Mr. Chair you might want to add to her that the parking would be as shown on this map 30 feet from her property line.

Ms. Weaver: How far is it from 12th to the edge of the parking lot?

Mr. Harwell: 37.45 according to this from the right-of-way.

Ms. Weaver: And I do have one more point that I want to clarify.

Mr. Harwell: You're talking about 7 feet that they could move it.

Ms. Weaver: I did not indicate that the crime occurred on this parking lot. I indicated that there was crime in that area of the AZD house, the K house, 11th Street, Lawrence Street but I did not mean to imply that it was on your property.

Chairman Wubneh: Thank you for the clarification. Any more questions? Any one in support of the application, opposed to the application, I guess we finished the support. I think members of the Board we have discussed the matter extensively. I now close the public hearing and call for a Board discussion. Please keep your mike open in discussions.

Mr. Harwell: We have some evidence that some nuisance activities in the record have occurred on that parking lot. I'd just like to (unclear) their comments and then look for

Chairman Wubneh: You might want to speak a little up because she's trying to capture your comments and I don't think she got it.

Mr. Harwell: I'm very sorry. It appears to me from the record that I heard at least that we have some record in comments by the applicants that some possible nuisance activities, spinning of wheels, parking, that type thing, has occurred in that area. I'm not being negative on that.

Chairman Wubneh: For the record.

Mr. Harwell: Just for the record. I'm not objecting to that.

Chairman Wubneh: Any more discussion? I apologize I didn't ask the city staff recommendation. I tend to forget you.

Mr. Lynch: Staff has no objections to the request, however, they will have to go through formal site plan review process and all the specific conditions that were made tonight would be subject to that as well as all the criteria's of the city would have for the development. Of this property.

Chairman Wubneh: Thank you. Any discussions from the Board?

Mr. Harwell: Therefore, I would like to include as a condition the lighting criteria.

Chairman Wubneh: Well come to that. You can just go ahead and start drafting your conditions. Members of the Board this is a special use permit and I will now read By the reference. If you want a vote please stop me otherwise by your silence it is recognized that you are voting in favor of the application. Conditions and Specification, Comprehensive Plan, Health and Safety, Detriment to Public Welfare, Existing Uses Detrimental, Injury to Properties or Improvements. Hearing no negative vote I'd like now to move on to the approval o the findings of fact. Before I ask for a vote on that would Mr. Harwell give us the conditions that you have drafted.

Mr. Harwell: Condition that at least 4 lights, one at least located near each of the 4 corners of the parking lot preferably in the landscaped areas and that the lights be of a sodium type, sodium vapor type or a mercury vapor types similar to those provided by GUC with yard lights and that these lights provide sufficient illumination for safety.

Chairman Wubneh: Okay Mr. Little did not like your language.

Mr. Little: I'm not necessarily in concert with Mr. Harwell. Mr. Harwell proposing conditions that are not yet adopted the findings of fact. You have to find the standard findings and I believe there was also discussion of some additional facts based upon amendments to the application by the Temple. Those have to be adopted. Any conditions have to be consistent with the facts that you have found. If you're going to propose additional lighting there has to be a factual basis for that consistent with your findings of fact. I bring that up to your attention that on the standard condition, the standard findings of fact, that were read, there were no calls for a vote on it. Those findings of fact have been adopted. As far as safety that has been an established finding of fact that there are no safety issues.

Mr. Harwell: Delete the word safety.

Mr. Little: Now, to have, there has to be factual, rational basis to adopt a fact, as a condition on this use. Lights for this property. There has not been any evidence to support a condition based upon the facts that have already been found.

Chairman Wubneh: But the applicant said that they are already experiencing problems of cars

Mr. Little: The applicant said they've had car spinning in there when it was unimproved. Unimproved.

Mr. Hutchens: They also testified that it was dark.

Ms. Safford-White: They said it was very dark.

Mr. Little: Putting in lights on an unimproved only means they can see the donuts. I think you're, based upon the use of substantial evidence that's stretching. If they want to make an amendment to their application to include that they will review the site plan with an engineer or an electrical engineer to determine if additional lighting is necessary or should be done to provide consistency with any nuisance ordinances then they could do. That would then allow you to make that as a finding of fact and then as your condition you could say that they will comply with that consult and determination as to whether or not to comply with the nuisance ordinances of the City of Greenville that additional lighting is being required. Because there has not been any substantial fact to say that lighting would or would not be a factor in safety because only a couple of instances of donut spinning in "X" number of years since 1963. Under the substantial rule, twice in longer than I went to college here is real difficult. Those are the facts that you're, I'm trying to keep you within those guidelines. Those are the things that you have to do. I'm not objecting to the condition as per se but on the wording that's being used before you even get to the findings of fact. That maybe something to hole off later (unclear).

Chairman Wubneh: As I understand what you're saying that we need to first adopt the findings of fact and then move on to the conditions?

Mr. Little: You've already accepted the standard findings of fact. There were some questions earlier, which we have not addressed, are the additional findings of fact

when they agreed to modify to change it from a buffer “D” delta, to a buffer “B” baker. I don’t know if there were any other changes that they were willing to make to their site plan, to their application. That is going to be up to them if they want to look at something additional as a way of saying they weren’t good neighbors. So far the question is going to be impose a condition on something that has not been finding of fact. Yes madam.

Ms. Bellis: There is another issue that was in the request that we haven’t addressed and I don’t know whether this is the time to do that or not but it says the applicant request that this proposed use not be permanent but rather be granted to the Masonic Temple during its ownership of the property. We haven’t discussed that. When should that be brought up?

Mr. Little: Well that’s part of your discussion. If it’s not addressed because what has happened is that it’s part of their petition application that would be like included in that. If they come back and say it specifically that’s okay but they would not be required because that portion of the application which is part of the evidence and part of the record has not changed. Is that as clear as mud?

Mr. Harwell: In that are you saying that statement applies or it doesn’t apply?

Mr. Little: It will apply unless the Board makes an additional finding of fact that we’re going to make it run with the property.

Mr. Harwell: That’s part of the finding of fact?

Mr. Little: It’s part of the application. Part of the file and part of what has already been fact.

Chairman Wubneh: I think we’re handling too many things. Let’s get back to Mr. Harwell’s light requirements. You say you’re not opposed to the requirements that you did not like the way it was worded?

Mr. Little: That’s part, (unclear) you have already put a condition on it and you haven’t got all your findings of fact. The timing maybe part of it plus if you’re going to make it a condition there has to be a finding of fact that the lighting is inadequate based upon the evidence or the applicant says we want to amend our application as

to the site plan, just like we did before, to say we will do A,B,C and D, whatever it is. That's up to them.

Chairman Wubneh: But in their presentation it was clearly indicated that it is dark. The area is dark. I don't know if it was from the applicants or from the...

Mr. Little: (Unclear) light that was available did occur from the street, from the apartment, from the Masonic Lodge as it is, from the fact the house added floodlights to the back so there is lighting back there. Whether or not it is adequate or not it has to be substantiated to say it's not adequate. Right now,

Mr. Ward: All we have to do is ask the applicant if he will put this as a condition? Is that not correct?

Mr. Hutchens: Amendment to the application.

Mr. Little: Amend their application.

Several members talking at once.

Chairman Wubneh: Mr. Ward I think you're right. I think might be.....

Mr. Ward: We simply ask the applicants if they will put that in as a condition.

Chairman Wubneh: Mr. Baldwin, I guess you are having a conference but there are two things that have raised. One is the question of lighting and if you are going to put that as part of the application, finding of fact. The second is in respect to the buffer from "D" to "B" without going through the details. I believe you agreed to that one.

Mr. Baldwin: We did agree to removing the bufferyard "D", the screening and the vegetation as well as the slats in the fence.

Chairman Wubneh: And the lighting?

Mr. Baldwin: I'm going to refrain to Mr. Paysour.

Mr. Paysour: Mr. Chairman this is an issue that we will have to examine. Frankly,

we are concerned about money. We can look into it and see how much it will cost us. I think what I was trying to say earlier is that and I think the City Attorney was harping on the same point, is that a parking lot in and of itself is not inherently dangerous. I think there has been no findings of fact of any type of criminal activity. The question was raised about people driving into the unimproved area and making donuts with their cars. There was testimony that has happened infrequently over many years. If you look at the plan we will have an improved lot with concrete parking bumpers and so that will be eliminated. It will be physically impossible to do that kind of activity. Just as to the point of lighting I just can't answer that question.

Mr. Ward: Would you rather go back and address lighting with your committee and then return to this Board than get it disapproved tonight?

Mr. Paysour: We would rather go back and discuss it with the committee, I think and then come back to have some more discussion. I'm just kind of at a lost that we don't have any kind of findings of fact of criminal activity.

Mr. Ward: (unclear) parking lot. Mr. Chairman I make a recommendation that they come back to this Board next month after discussing lighting with their committee.

Mr. Harwell: Second.

Chairman Wubneh: That a motion and second. I believe Mr. Little that's appropriate?

Mr. Harwell: Or that the matter be tabled.

Ms. Safford-White: Let's table it.

Mr. Little: You can table it but you're going to have to have a record that's going to have to substantiate those rights.

Mr. Ward: Not until we have a parking lot.

Mr. Little: As a condition you're getting parking lot and lights, a condition put on that as a parking lot, if you disapprove of it because there are no lights, and using this hypothetically, you have to have substantial evidence. You've already established the findings of fact and approved them. That motion is already made and

it's already been approved.

Several members talking: No, no, we didn't vote yet.

Chairman Wubneh: We were waiting for the conditions to

Mr. Little: You've already, by going through, not voting on them per se, when you went through the standard conditions there were no calls for votes, those have been approved, those facts have been established for the record.

Mr. Harwell: Only because I was at the opinion and understanding that they had agreed and I think that the record will do this for lighting.

Mr. Little: If you want to table it that is fine. You're going to have to make the motion to table it and you're going to have to second it, vote and that's fine. You can certainly do that. That is up to the Board's prerogative. Before the Board can require lights, there has to be a finding of fact as it relates to that particular property. That there is a danger, there is safety, that there is immediate threat created to that house if it is a parking lot versus a unimproved vacant property as it is now. That's going to be your requirement if you decide to table it and look at it from that standpoint.

Chairman Wubneh: I think the option that the Board has now is either to table it and they probably might be able to resolve it through their own consultation and conference or based on the facts that are presented to the Board, the Board would go ahead a vote whether to approve it or not approve it. In my opinion I think there is certain concern of security and safety.

Mr. Little: If the Board were to disapprove it and they were to appeal that decision in Superior Court the chances of the Board's decision being sustained as it stands right now is slim. I'll be just as frank with you as possible.

Ms. Safford-White: Mr. Little may I say. Mr. Chairman may I say that I believe that what really happened here because as we were going through this and we were talking back and forth and decisions were made that when we came to our standards that we did not object to it because we were under the impression that would be part of the changes. Had I known that would not have been part of the changes I would have objected immediately on two of these. Do you understand what I'm saying?

Mr. Little: First (unclear) about the discussion concerning discussion. First off you have to go with what is substantial evidence. Try to get through that. We had to determine whether or not there was substantial or just an opinion or a concern. If the Board was unclear when it comes time for a vote that is up to the members of the Board to ask those questions at that point. It has always been up to the Board to ask at that point. The fact that the Board came back and sat down and said No or didn't say anything that creates a record problem for you. We're trying to keep the record consistent with what you are actions have already been to this point. My job is not only to be an advisor but also look down the road if any applicant or any opponent appeals it. What the rules that the Superior Court will review this under and what substantial evidence is and what has to be established has findings of fact. That was the concerns that I had that I'm trying to express to you when you're making your decisions and when you're talking about things and asking questions of an applicant. Those are the things that you have to do as a Board member and by going the steps that you have already gone we're reaching a certain points and trying to close the barn door after the horse has already run out is really difficult. I was trying to prevent that from happening.

Mr. Paysour: How about I help you by catching the horse. We will agree to put up four lights in the corners, in the landscape corners. We would like to amend our application to that effect and we can go home.

Chairman Wubneh: Thank you very much. I wish you had done that a little earlier who knows we would have saved a lot of time. Mr. Little does that answer your question?

Mr. Little: I had given that 20 minutes ago as three options available and apparently no one was listening.

Mr. Paysour: I was trying to get that in. We're concerned obviously about expense but I can see that we have somehow managed to get ourselves into a pickle. I think the better of discretion is for us to be good neighbors and eat the expense of putting up four lights in the landscape corners. I think that was Mr. Harwell's jest of the motion he was trying to make.

Chairman Wubneh: Thanks I think that's going to be helpful for everybody's interest.

Mr. Natale: I just want to say one thing. One of the things, we had planned to put some lighting but when you mentioned that particular light we were concerned. We weren't sure of cost or expense of that particular lights.

Mr. Harwell: There're two lights, one cheap, one expensive.

Mr. Natale: Well that's all we needed to know. We just got a little worried about that fancy type lighting.

Chairman Wubneh: I believe we had gone through the Board discussion. Motion to approve, now the procedure would be that we will approve the findings of fact with the amendments to be made by the applicants, the changes.

Mr. Little: What you want to do, you're at point "x", are there any additional facts that the Board wants added to your findings. Then there would be a motion to make as additional findings of fact one the change they made from bufferyard "D" to a bufferyard "B" which they would still keep the 10 feet (unclear). It would remove the slats and remove the vegetation requirements to be consistent with the "B". The second finding of fact, I'm trying to summarize this for everybody, second additional finding of fact would be that the Temple would then as agreed to amend their application to say they will add lights at the four corners or where an electrician determines, or engineer, best location those four corners may not be the best place. An appropriate lighting for that parking lot.

Mr. Stapleton: Just to point this out to the Board because he brings up a good point there's a light right there at that one corner a very bright light that the city has provided right there on a pole so it might be that we, it might not be that corner it might be better suited somewhere else.

Chairman Wubneh: I think now

Mr. Little: Those were two conditions I don't know if there was a third.

Chairman Wubneh: Were there any other condition that we need? Additional finding of fact?

Mr. Hutchens: About the temporary use.

Mr. Paysour: Mr. Chairman that was my drafting that paragraph was put in there. I wanted to make clear this would not, once we received the permission that there wouldn't be a mandatory use for us in the future. I understand and talking with the staff that we don't have to have the parking lot if we don't want it once we

Mr. Little: If they stop use of it for 6 months. The permit expires.

Chairman Wubneh: The permit expires.

Mr. Paysour: So to make it easy on you we can delete that provision from the application.

Chairman Wubneh: Okay that's the third one then in terms of deleting that part of the application.

Mr. Paysour: It's understood anyway without that sentence being in the application.

Chairman Wubneh: I am not going to attempt to summarize the three conditional findings of facts because I think it has been clearly stated. However, I would like to get a motion. We have the three conditions, three additional facts as stated and I hope Kathy has captured those three. Any motion? I'd like to get a motion.

Mr. Harwell: Motion.

Chairman Wubneh: Motion by Mr. Harwell.

Ms. Safford-White: Second.

Chairman Wubneh: Second by Ms. Safford-White. Those in favor of approving the additional findings of fact please indicate by saying "Aye". Opposed? I'd like to get a motion to approve the findings of fact with the additional facts included.

Mr. Ward: So moved.

Mr. Wright: Second.

Chairman Wubneh: Motion Mr. Ward and seconded by Mr. Wright. Those in favor

of approving the findings of fact please indicate by saying “Aye”. Opposed? I’d like to get another motion to approve the petition with the changes.

Mr. Hutchens: So moved.

Mr. Wright: Second.

Chairman Wubneh: Mr. Hutchens and Mr. Wright second. Those in favor of approving the petition please indicate by saying “Aye”. Opposed? Thank you very much gentlemen your application is approved.

REQUEST FOR A SPECIAL USE PERMIT BY APRIL HOOKS – GRANTED

Chairman Wubneh stated that the next item is a request for a special use permit to allow a day care at 506 Greenfield Boulevard. The applicant, April Hooks, has requested a special use permit to allow a home occupation specifically a home childcare business, pursuant to Section 9-4-78(f)(3)(a) of the Greenville City Code. The proposed is to be located at 506 Greenfield Boulevard and is further identified as Tax Parcel 12255.

Chairman Wubneh declared the meeting a public hearing as advertised in The Daily Reflector on April 17, 2006 and April 24, 2006. Those wishing to speak for or against the request were sworn in.

Mr. Lynch delineated the area on the map. Mr. Lynch stated this is a request for a home occupation, child day care, at 506 Greenfield Boulevard in the Greenfield Terrance Subdivision. The property is zoned R9S and located in the middle of a single family residential neighborhood. To the rear of the property is a city park, residential on the west and east side and across the street. The lot is 11,000 square foot. The structure has a total of 1,122 heated square feet. The Land Use Plan classifies the property as medium density residential. The property is located in Vision Area “A” of the Land Use Plan which allows home occupations provided they comply with specific standards. Mr. Lynch read the criteria for a home occupation and the specific criteria if approved. Mr. Lynch explained the difference between home occupation child care and a full fledged child day care facility. Mr. Lynch stated that the applicant would be limited to five children. Mr. Lynch asked that the findings of fact be entered into the record.

Applicant: April Hooks

Request: The applicant, April Hooks, desires a special use permit to establish of a home occupation (home daycare) pursuant to Section 9-4-7-78(f)(3)a and 9-4-86(v)(1) of the Greenville City Code.

Location: The proposed home occupation is located in an existing residence at 506 Greenfield Boulevard. The property is further identified as being Tax Parcel Number 12255.

Zoning of Property: R-9S (Single Family Residential)

Surrounding Development:

Zoning

North: Park	R-9S (Single Family Residential)
South: Residence	R-9S (Single Family Residential)
East: Residence	R-9S (Single Family Residential)
West: Residence	R-9S (Single Family Residential)

Description of Property:

The subject property is located in the Greenfield Terrace subdivision off North Memorial Drive. The lot totals approximately 11,826 square feet and has a total of 1,122 heated square feet.

Comprehensive Plan:

The property is located within Vision Area "A" of the City of Greenville Comprehensive Land Use Plan, which recommends residential use for the subject property. The Land Use Plan allows home occupations, provided that they comply with the specific standards upon issuance of a special use permit by the board of adjustment.

Notice:

Notice was mailed to the adjoining property owners on April 13, 2006. Notice

of a public hearing was published in the Daily Reflector on April 17, 2006 and April 24, 2006.

Staff Comments:

A home occupation child daycare is limited to less than six clients. Once there are more than six the business would then constitute a child care facility, which would require further approval from the Board of Adjustment.

Home Occupations shall meet the following characteristics:

1. Shall be only permitted within single-family dwellings;
2. Shall not be permitted within any accessory buildings;
3. Shall constitute an accessory use to the principal use;
4. Shall not occupy more than (20) percent of the heated floor space of the dwelling unit (maximum of 242 square feet in this case)
5. Shall not employ more than one (1) person other than those legally residing within the principal use dwelling;
6. Shall not be visible from any public street right-of-way or adjacent property line;
7. Shall not involve the on-site sale of products;
8. Shall not involve the outside storage of related materials, parts or supplies;
9. Shall have signage in accordance with article N, Signs; and
10. Shall not create any hazard or nuisance to the occupants residing or working within the principle use dwelling or to area residents or properties.

A Home Occupation is an activity conducted for financial gain in an owner occupied dwelling. If the applicant is issued a Special Use Permit for a home occupation she must occupy the home as a residence.

If approved, the applicant shall comply with the following pursuant to Section 9-4-86, Specific Criteria:

- (1) All accessory structures, including but not limited to playground equipment and pools must be located in the rear yard.
- (2) The minimum lot size shall be increased by a ratio of one hundred (100) square feet per child in excess of five (5).

- (3) Outdoor play area shall be provided at a ratio of one hundred (100) square feet per child and shall be enclosed by a fence at least four (4) feet in height. Further, all playground equipment shall be located in accordance with the bufferyard regulations.
- (4) If located in a residential district, a residential appearance of the site shall be maintained to the greatest possible extent.
- (5) Employee parking shall be at the rear of the structure when a child day care facility is located in a residential district.

Staff Recommendation:

Staff is under the opinion that the request meets all the development standards required for the issuance of a special use permit. Provided that the applicant complies with and obtains all appropriate licensure local state and federal agencies.

Ms. Bellis asked what signage would be allowed and the number of children to attend the day care. Ms. Bellis noted that the staff comments stated that a home occupation is limited to less than six clients.

Mr. Lynch stated that the applicant would be limited to three square feet and on the wall of the building. Mr. Lynch stated that the staff comments should read six or less clients, which is five.

Ms. April Hooks spoke on behalf of her request. Ms. Hooks stated that she has contacted the North Carolina Licensing Consultant, Donna Harris, and is aware of the requirements and regulations and will comply with all state, county and city regulations. Ms. Hooks explained that her two children would be a part of the five children she will keep. There will be two shifts, one at 6 AM to 3 PM and 3 PM to 11 PM. The children will be transported by van so traffic will be limited.

No one spoke in opposition.

Chairman Wubneh then read the criteria in granting/denying a special use permit.

Motion was made by Mr. Wright, seconded by Mr. Ward, to adopt the proposed findings of fact and evidence presented. Motion carried unanimously.

Motion was made by Ms. Safford-White, seconded by Ms. Bellis, to approve the request. Motion carried unanimously.

Based on the facts found by the Board and the evidence presented, the Board orders that this permit be granted and subject to full compliance with all of the specific requirements stated in the Zoning Ordinance of the City of Greenville for the proposed use.

INFORMATION

Ms. Bellis stated that there is a day care center on Hooker Road that was approved by the Board and has two signs. Ms. Bellis asked if the signs were approved for the day care. Ms. Bellis asked the status of Tripp's Restaurant.

Mr. Lynch stated that staff would report back to the Board their findings on the day care at their May meeting.

Mr. Harrison stated that a site plan has been approved for Tripp's Restaurant.

Mr. Lynch advised the Board that he was leaving the City's employment and Mr. Wayne Harrison would be the staff liaison to the Board.

Chairman Wubneh recognized Mr. Lynch for the outstanding job that he has done.

Motion was made by Mr. Harwell, seconded by Mr. Hutchens to formally commend Mr. Lynch on his good service and appreciation for his dedication. Motion carried unanimously.

Chairman Wubneh stated that he hoped the city would give Mr. Lynch a certificate.

There being no further business the meeting adjourned at 9:30 PM.

Respectfully submitted

Wayne Harrison
Planner

